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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,062	01/14/2004	Michael James Pratt	9279.87	4130
21999 7590 04/19/2007 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER VANTERPOOL, LESTER L	
			ART UNIT	PAPER NUMBER
			3782	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/19/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/757,062

Applicant(s)

PRATT ET AL.

Examiner

Lester L. Vanterpool

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on December 22, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-21 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1,3-13, 15-21 and 26-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 14, 2007 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (the attachment means for attaching the load to the apparatus being coupled to at least one of: said dorsal segment of the stabilizing arm; and the dorsal segment of the opposing arm) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show (the attachment means for attaching the load to the apparatus, wherein the attachment means are coupled to at least one of: the dorsal segment of the stabilizing arm; and the dorsal segment of the opposing arm) as described in the specification, page 14 & 15. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Election/Restrictions***

3. The restriction election in the office action mailed on September 26, 2006 has been withdrawn.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 recites the limitation "said supporting rib" in claim 1, line 7. There is insufficient antecedent basis for this limitation in the claim.

6. Examiner notes applicant is evoking 35 U.S.C. 112, 6<sup>th</sup> paragraph in claim 1, line 11) by reciting: means for attaching said load to said apparatus.

7. Examiner notes applicant is evoking 35 U.S.C 112, 6<sup>th</sup> paragraph in claim 19, line 15) by reciting: means for attaching said load to said apparatus.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1, 3 – 6 & 11 – 13, 15, 17 – 21, 26, 28 – 32 & 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiltse et al., (U.S. Patent Number 3106350).

Wiltse et al., discloses the central rib (11) to distribute the weight corresponding to the load (weight resistance of 12) over the back of the user (See Figure 1 & 2);

the stabilizing arm (9) coupled to the central rib (11) to stabilize the load (7) with respect to the user (See Figures 1 & 2);

the opposing arm (8) coupled to the supporting rib (11), wherein the stabilizing arm (9) and the opposing arm (8) further comprise specific contours comprising the dorsal segment and the anterior segment (See Figures 1 & 2), and wherein the opposing arm (8) comprises the lateral extension that extends from the anterior segment (See Figures 1 & 2);

and attachment means (12) for attaching the load (weight resistance of 12) to the apparatus (See Figure 2), the attachment means (12) being coupled to at least the dorsal segment of the stabilizing arm (9) (See Column 2, lines 26 & 27) (See Figures 1 & 2).

Regarding claim 3, Wiltse et al., discloses the central rib (11) is substantially rigid (See Figure 2).

Regarding claim 4, Wiltse et al., discloses the opposing arm (8) substantially counterbalances the stabilizing arm (9) such that the weight corresponding to the load (7) is substantially evenly distributed over the central rib (11) (See Figure 1).

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Regarding claim 5, Wiltse et al., discloses the stabilizing arm (9) is coupled to one end of the central rib (11) (See Figure 2), and wherein the opposing arm (8) is coupled to an opposite end of the central rib (11) (See Figures 1 & 2).

Regarding claim 6, Wiltse et al., discloses the stabilizing arm (9) and the opposing arm (8) are substantially rigid (See Figures 1 & 2).

Regarding claim 11, Wiltse et al., discloses the central rib (11), stabilizing arm (9) and the opposing arm (8) are substantially rigid (See Figures 1 & 2).

Regarding claim 12, Wiltse et al., discloses the attachment means (12) is configured to receive the support strap assembly (28) (See Figure 2), wherein the support strap assembly (28) may be disposed between each of the load bearing apparatus and the load (weight resistance of 12) (See Figures 1 & 2).

Regarding claim 13, Wiltse et al., discloses the central rib (11) to distribute the weight corresponding to the load (weight resistance of 12) over the user (See Figures 1 & 2);

the stabilizing arm (9) coupled to the central rib (11) to stabilize the load (weight resistance of 12) with respect to the user (See Figures 1 & 2);

the opposing arm (8) coupled to the supporting rib (11), wherein the stabilizing arm and the opposing arm (8) further comprise specific contours comprising the dorsal

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segment and the anterior segment (See Figures 1 & 2), and wherein the opposing arm (8) comprises the lateral extension that extends from the anterior segment (See Figures 1 & 2);

attachment means (12) coupled to at least one of the central rib (11) (See Figure 2) and the dorsal segment of the stabilizing arm (9) (See Figure 2) to facilitate attaching the load (weight resistance of 12) to the load bearing apparatus (See Figures 1 & 2), and wherein the attachment means (12) is configured to receive the support strap assembly (28) (See Figure 2), and wherein the support strap assembly (28) may be disposed between each of the load bearing apparatus and the load (weight resistance of 12); and

wherein the support strap assembly (28) comprises at least one dorsal strap (See Figure 1) attached to the attachment means (12) and at least the anterior segment of the opposing arm (8) (See Figures 1 & 2).

Regarding claim 15, Wiltse et al., discloses the load bearing apparatus comprising the unitary assembly (See Figures 1 & 2).

Regarding claim 17, Wiltse et al., discloses the central rib (11) comprises the substantially planar surface (See Figure 2) that substantially conforms to the upper surface of the user's back (See Figures 1 & 2).



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Regarding claim 18, Wiltse et al., discloses the stabilizing arm (9) and the opposing arm (8) comprises the substantially planar surface (See Figures 1 & 2) that substantially conforms to at least one of the user's shoulders (See Figures 1 – 3).

Regarding claim 19, Wiltse et al., discloses the load (weight resistance of 12) of being supported by the user (See Figures 1 & 2); and

The unitary shoulder frame assembly (See Figure 1 & 2) coupled to the load (weight resistance of 12), the shoulder frame assembly (See Figures 1 & 2) comprising; central rib (11) to distribute the weight corresponding to the load (weight resistance of 12) over the back of the user (See Figure 1 & 2);

the stabilizing arm (9) coupled to the central rib (11) to stabilize the load (7) with respect to the user (See Figures 1 & 2);

the opposing arm (8) coupled to the supporting rib (11), wherein the stabilizing arm (9) and the opposing arm (8) further comprise specific contours comprising the dorsal segment and the anterior segment (See Figures 1 & 2), and wherein the opposing arm (8) comprises the lateral extension that extends from the anterior segment (See Figures 1 & 2);

and attachment means (12) for attaching the load (weight resistance of 12) to the shoulder frame assembly (See Figure 2), the attachment means (12) being coupled to at least the dorsal segment of the stabilizing arm (9) (See Column 2, lines 26 & 27) (See Figures 1 & 2).

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Regarding claim 20, Wiltse et al., discloses the opposing arm (8) substantially counterbalances the stabilizing arm (9) such that the weight corresponding to the load (weight resistance of 12) is substantially evenly distributed over the central rib (11) (See Figure 1 & 2).

Regarding claim 21, Wiltse et al., discloses the unitary shoulder frame assembly is substantially rigid (See Figures 1 – 3).

Regarding claim 26, Wiltse et al., discloses the shoulder frame assembly further comprising the substantially planar surface substantially conforming to the user's shoulder and back (See Figures 1 – 3).

Regarding claim 28, Wiltse et al., discloses the attachment means (12) is coupled to the central rib (11) (See Figure 2).

Regarding claim 29, Wiltse et al., discloses the attachment means (12) comprise the support strap assembly (28) (See Figures 1 & 2).

Regarding claim 30, Wiltse et al., discloses the support strap assembly (28) comprises at least one dorsal strap (See Figure 1) attached to the central rib (11) and at least one anterior strap (16) attached to the opposing arm (8) (See Figures 1 & 2).

Regarding claim 31, Wiltse et al., discloses the load (weight resistance of 12) capable of being supported by the user (See Figure 1); and the unitary shoulder frame assembly (See Figures 1 & 2) coupled to the load (weight resistance of 12) (See Figure 1), the shoulder frame comprising: the central rib (11) (See Figure 2) for distribute the weight of the load over (weight resistance of 12) the user (See Figure 1); the stabilizing arm (9) coupled to the central rib (11) to stabilize the load (weight resistance of 12) with respect to the user; and the opposing arm (8) coupled to the supporting rib (11), wherein the stabilizing arm (9) and the opposing arm (8) further comprise specific contours comprising the dorsal segment and the anterior segment (See Figures 1 – 3), and wherein the opposing arm (8) comprises the lateral extension (See Figures 1 – 3) that extends from the anterior segment (See Figures 1 & 2);

wherein the shoulder frame assembly (See Figure 2) further comprises attachment means (12) coupled to at least one of the central rib (11) (See Figure 2), the dorsal segment of the stabilizing arm (9) and the dorsal segment of the opposing arm (8) to facilitate attaching the load (weight resistance of 12) to the shoulder frame assembly (See Figures 1 & 2), wherein the attachment means (12) comprises the support strap assembly (28), wherein the support strap assembly (28) comprises at least the dorsal strap segment (See Figure 1) of the stabilizing arm (9) and at least one anterior strap (16) attached to the anterior segment of the opposing arm (8) and wherein the opposing arm (8) being capable to have a length longer than the length corresponding to the stabilizing arm (9), such that the load (weight resistance of 12)

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may be distributed substantially diagonally over the surface of the user (See Figures 1 & 2).

Regarding claim 32, Wiltse et al., discloses providing the substantially rigid shoulder frame assembly (See Figures 1 –3) to substantially conform to the user's shoulders and back (See Figure 1), wherein the substantially rigid shoulder frame includes two differently shaped shoulder support members (See Figure 2), wherein the shoulder support members (See Figures 1 & 2) further comprise specific contours comprising the dorsal segment and the anterior segment (See Figures 2 & 3), wherein one of the shoulder support members comprises a lateral extension that extends from the anterior segment (See Figure 1);

attaching the substantially rigid shoulder frame assembly to the load (weight resistance of 12) using a means for attaching loads (12), the means (12) being located on the dorsal portion of the substantially rigid shoulder frame assembly (See Figure 2);

positioning substantially rigid shoulder frame assembly over the shoulders and the back of the user such that the weight of the load (weight resistance of 12) is substantially evenly distributed over the user (See Figures 1 – 3).

Regarding claim 34, Wiltse et al., disclose positioning the substantially rigid shoulder frame over the shoulders and the back of the user further comprises selectively adjusting the support strap assembly to customize the relationship between

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the substantially rigid shoulder frame assembly and the load according to the user's body type and individual preferences (See Figures 1 & 2).

10. Claims 7 & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltse et al., (U.S. Patent Number 3106350) in view of Hart (U.S. Patent Number 5890025). Wiltse discloses stabilizing arm (9) and the opposing arm (8) (See Figures 1 & 2).

However, Wiltse et al., does not disclose at least one cushioning support coupled to the underside surface of the stabilizing arm and opposing arm.

Hart teaches at least one cushioning support (45) coupled to the underside surface of the stabilizing arm (3 right side) and the opposing arm (3 left side) (See Figures 1 – 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one cushioning support coupled to the underside surface of the stabilizing arm and opposing arm as taught by Hart with the load bearing apparatus of Wiltse et al., in order to enhance user's comfort.

Regarding claim 27, Wiltse discloses stabilizing arm (9) and the opposing arm (8) (See Figures 1 & 2).

However, Wiltse et al., does not disclose at least one cushioning support coupled to the underside surface of the stabilizing arm and opposing arm.

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Hart teaches at least one cushioning support (45) coupled to the underside surface of the stabilizing arm (3 right side) and the opposing arm (3 left side) (See Figures 1 – 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one cushioning support coupled to the underside surface of the stabilizing arm and opposing arm as taught by Hart with the load bearing apparatus of Wiltse et al., in order to enhance user's comfort.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltse et al., (U.S. Patent Number 3106350) in view of Hart (U.S. Patent Number 5890025) as applied to claim 7 above, and further in view of Fauser (U.S. Patent Number 3332593).

However, Wiltse et al., as modified above do not disclose at least one cushioning support further coupled to the underside surface of the central rib.

Fauser teaches at least one cushioning support (30) further coupled to the underside surface of the central rib (34) (See Figures 1, 3 & 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one cushioning support further coupled to the underside surface of the central rib as taught by Fauser with the load bearing apparatus of Wiltse et al., in order to enhance user's comfort.

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12. Claims 9, 10 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltse et al., (U.S. Patent Number 3106350) in view of Hsieh (U.S. Patent Number 4799610).

Wiltse et al., discloses the stabilizing arm (9), the central rib (11) and the opposing arm (8) (See Figures 1 – 3).

However, Wiltse et al., does not disclose the stabilizing arm adjustably coupled to the central rib.

Hsieh teaches the stabilizing arm (2 right side) is adjustably coupled to the central rib (11) (See Figures 1 – 3 & 5).

It would have been obvious to one having ordinary skill in the art the at the time the invention was made to make the stabilizing arm adjustably coupled to the central rib as taught by Hsieh with the load bearing apparatus of Wiltse et al., in order to enhance accommodate users of various sizes.

Regarding claim 10, Wiltse et al., discloses the stabilizing arm (9), the central rib (11) and the opposing arm (8) (See Figures 1 – 3).

However, Wiltse et al., does not disclose at least one opposing arm being adjustably coupled to the central rib.

Hsieh teaches the opposing arm (2 left side) is adjustably coupled to the central rib (11) (See Figures 1 – 3 & 5).

It would have been obvious to one having ordinary skill in the art the at the time the invention was made to make the opposing arm adjustably coupled to the central rib

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as taught by Hsieh with the load bearing apparatus of Wiltse et al., in order to enhance accommodate users of various sizes.

Regarding claim 16, Wiltse et al., discloses the stabilizing arm (9), the central rib (11) and the opposing arm (8) (See Figures 1 – 3).

However, Wiltse et al., does not disclose the stabilizing arm and the opposing arm adjustably coupled to the central rib.

Hsieh teaches the stabilizing arm (2 right side) and the opposing arm (2 left side) are adjustably coupled to the central rib (11) (See Figures 1 – 3 & 5).

It would have been obvious to one having ordinary skill in the art the at the time the invention was made to make the stabilizing arm and the opposing arm are adjustably coupled to the central rib as taught by Hsieh with the load bearing apparatus of Wiltse et al., in order to enhance accommodate users of various sizes.

13. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltse et al., (U.S. Patent Number 3106350).

Wiltse et al., is capable of attaching the substantially rigid shoulder frame assembly to the load (weight resistance of 12) further comprises coupling the support strap (28) assembly to the substantially rigid shoulder frame assembly and the load (weight resistance of 12).

However, Wiltse et al., does not disclose the support strap assembly to each of the substantially rigid shoulder frame assembly and the load.



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It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the support strap assembly to each of the substantially rigid shoulder frame assembly and the load, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

#### ***Allowable Subject Matter***

14. Claim 14 is allowed.

#### ***Response to Arguments***

15. Applicant's arguments with respect to claim 1, 3 – 21, 26 – 34 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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